

ESTTA Tracking number: **ESTTA392258**

Filing date: **02/08/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Skinny Girl Cocktails LLC
Granted to Date of previous extension	02/09/2011
Address	225 Varick Street, Suite 303 New York, NY 10014 UNITED STATES

Attorney information	Sarah M. Robertson, Esq. Dorsey & Whitney LLP 250 Park Avenue15th Floor New York, NY 10177 UNITED STATES ny.trademark@dorsey.com, robertson.sarah@dorsey.com, johnson.marilyn@dorsey.com Phone:212-415-9200
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Applicant Information

Application No	85089709	Publication date	10/12/2010
Opposition Filing Date	02/08/2011	Opposition Period Ends	02/09/2011
Applicant	Drown Corp. 14 Stratford Court East Amherst, NY 14051 UNITED STATES		

Goods/Services Affected by Opposition


Class 033. All goods and services in the class are opposed, namely: Alcoholic cocktail mixes; Distilled Spirits; Potable spirits; Prepared alcoholic cocktail
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3812197	Application Date	11/25/2008
Registration Date	06/29/2010	Foreign Priority Date	NONE

Word Mark	SKINNYGIRL
Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2009/09/23 First Use In Commerce: 2009/09/23 prepared alcoholic cocktails

U.S. Application No.	77621838	Application Date	11/25/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SKINNYGIRL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: cocktail shakers; cocktail stirrers; cocktail strainers; beverage glassware and shot glasses; pitchers Class 032. First use: prepared non-alcoholic cocktails; non-alcoholic cocktail mixes Class 033. First use: alcoholic cocktail mixes		

Attachments	77979589#TMSN.jpeg (1 page)(bytes) 77621838#TMSN.jpeg (1 page)(bytes) Notice of Opposition (M85089709).pdf (14 pages)(455950 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/smr/
Name	Sarah M. Robertson, Esq.
Date	02/08/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/089,709
Published on October 12, 2010

SKINNY GIRL COCKTAILS LLC,

Opposer,

v.

DROWN CORP.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Skinny Girl Cocktails LLC, (“Opposer”), a Delaware limited liability company, with its principal place of business at 225 Varick Street, Suite 303, New York, New York, 10014, believes it will be damaged by registration of the mark SKINNY GUY for “*Alcoholic cocktail mixes; Distilled Spirits; Potable spirits; Prepared alcoholic cocktail,*” in International Class 33 sought to be registered in U.S. Application Serial No. 85/089,709 by Drown Corp. (“Applicant”), and having been granted an extension of time to oppose until February 9, 2011 by Order of the Trademark Trial and Appeal Board mailed on October 14, 2010, hereby opposes same.

As grounds for opposition, it is alleged that:

1. By the application herein opposed, Applicant seeks to register the mark SKINNY GUY for “*Alcoholic cocktail mixes; Distilled Spirits; Potable spirits; Prepared alcoholic cocktail,*” in International Class 33, Application Serial No. 85/089,709 (the “Application”). The Application was filed on July 21, 2010, based on an intent-to-use the mark.

2. Since at least as early as September 23, 2009, Opposer and/or Opposer's predecessors-in-interest have used the SKINNYGIRL mark for, *inter alia*, alcoholic cocktails. Opposer extensively markets these cocktails through television and in-person appearances by its representatives, and through websites and other marketing channels.

3. Well prior to the filing date of the Application, Opposer and/or Opposer's predecessors-in-interest have sought and obtained registration rights for the trademark SKINNYGIRL for various goods including prepared alcoholic cocktails. Opposer and/or Opposer's predecessors-in-interest have manufactured, marketed, distributed and sold prepared alcoholic cocktails under the trademark SKINNYGIRL, including prepared alcoholic cocktails, prior to any first use by Applicant of the mark SKINNY GUY under opposition, and such manufacture, marketing, distribution and sale of prepared alcoholic cocktails under the trademark SKINNYGIRL also predate the filing date of the Application.

4. Opposer owns the entire right, title and interest in and to Opposer's SKINNYGIRL trademark and owns, *inter alia*, U.S. Registration No. 3,812,197 for the trademark SKINNYGIRL, which issued on June 29, 2010 for "*prepared alcoholic cocktails*," in International Class 33 ("Opposer's Registration"). Opposer's Registration is in all respects valid, subsisting and owned by Opposer. Opposer also owns, *inter alia*, U.S. Application No. 77/621,838 for the trademark SKINNYGIRL for "*alcoholic cocktail mixes*," in International Class 33, "*prepared non-alcoholic cocktails; non-alcoholic cocktail mixes*," in International Class 32, and "*cocktail shakers; cocktail stirrers; cocktail strainers; beverage glassware and shot glasses; pitchers*," in International Class 21 ("Opposer's Application"). Print-outs of Opposer's Registration and Opposer's Application from the electronic database of the U.S. Patent and Trademark Office showing the current status and title of this registration and application are attached hereto as Exhibit A.

5. As a consequence of the foregoing, the consuming public and trade have come to recognize and do recognize Opposer's SKINNYGIRL trademark as applied to alcohol and/or cocktail-related products as being used by Opposer, and to identify and associate said marks with Opposer, and Opposer derives substantial goodwill and value from the aforesaid recognition, association and identification by the consuming public and trade.

6. The SKINNY GUY mark sought to be registered by Applicant is confusingly similar in sound, appearance and commercial impression to Opposer's SKINNYGIRL mark, and nearly identical in meaning. Further, the alcoholic products covered by the Application under opposition are the same as, or closely related to the goods offered, or intended to be offered, for sale by Opposer under its SKINNYGIRL mark and/or covered by Opposer's Registration and Opposer's Application.

7. As a result of the foregoing, the purchasing public familiar with Opposer's products and SKINNYGIRL mark, is likely to be confused, misled or deceived into thinking that the products of Applicant are offered by Opposer or are in some way sponsored by or connected with Opposer, and/or that the products of Opposer are offered by Applicant, or are in some way sponsored by or connected with Applicant, to Opposer's irreparable damage and injury in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and will give color of statutory rights to Applicant in violation and derogation of the prior and superior statutory rights of Opposer in its SKINNYGIRL mark.

WHEREFORE Opposer believes that it will be damaged by registration of Applicant's mark and prays that this opposition be sustained, and that Application Serial No. 85/089,709 be denied.

Please recognize as attorneys for Opposer in this proceeding Sarah Robertson and Sandra Edelman, members of the Bar of the State of New York, whose address is Dorsey & Whitney LLP, 250 Park Avenue, New York, New York, 10177, telephone number (212) 415-9200.

Please address all correspondence to Sarah Robertson at the below address.

DORSEY & WHITNEY LLP

Dated: February 8, 2011

By: /smr/

Sarah Robertson
Sandra Edelman
250 Park Avenue
New York, New York 10177
(212) 415-9200

Attorneys for Opposer
Skinny Girl Cocktails LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on John M. Rannells as counsel for Drown Corp. by mailing said copy on February 8, 2011, via First-Class Mail, postage prepaid, to:

John M. Rannells
Baker and Rannells PA
575 Route 28 Ste 102
Raritan, NJ 08869-1354

Dated: February 8, 2011

Marilyn Johnson

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-02-08 12:49:46 ET

Serial Number: 77979589 Assignment Information Trademark Document Retrieval

Registration Number: 3812197

Mark

SKINNYGIRL

(words only): SKINNYGIRL

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-06-29

Filing Date: 2008-11-25

Transformed into a National Application: No

Registration Date: 2010-06-29

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-05-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SKINNY GIRL COCKTAILS LLC

Address:

SKINNY GIRL COCKTAILS LLC

EXHIBIT A

417 FIFTH AVENUE PENTHOUSE

NEW YORK, NY 10016

United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

prepared alcoholic cocktails

Basis: 1(a)

First Use Date: 2009-09-23

First Use in Commerce Date: 2009-09-23

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-06-29 - Registered - Principal Register

2010-05-22 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-05-21 - Law Office Registration Review Completed

2010-05-21 - Allowed for Registration - Principal Register (SOU accepted)

2010-05-12 - Notice Of Pseudo Mark Mailed

2010-05-11 - Statement Of Use Processing Complete

2010-04-30 - Use Amendment Filed

2010-05-11 - Divisional processing completed

2010-04-30 - Divisional request received

2010-04-30 - TEAS Request To Divide Received

2010-04-30 - TEAS Statement of Use Received
2010-04-27 - Divisional processing completed
2010-03-30 - Divisional request received
2010-04-22 - Case Assigned To Intent To Use Paralegal
2010-03-30 - TEAS Request To Divide Received
2009-12-29 - NOA Mailed - SOU Required From Applicant
2009-10-06 - Notice Of Publication E-Mailed
2009-10-06 - Published for opposition
2009-09-03 - Law Office Publication Review Completed
2009-09-03 - Assigned To LIE
2009-08-31 - Approved For Pub - Principal Register
2009-08-14 - Teas/Email Correspondence Entered
2009-08-14 - Communication received from applicant
2009-08-14 - TEAS Response to Office Action Received
2009-03-03 - Notification Of Non-Final Action E-Mailed
2009-03-03 - Non-final action e-mailed
2009-03-03 - Non-Final Action Written
2009-02-25 - Assigned To Examiner
2009-02-12 - Automatic Update Of Assignment Of Ownership
2008-12-02 - Notice Of Pseudo Mark Mailed
2008-12-01 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Sarah M. Robertson

CorrespondentSARAH M. ROBERTSON
DORSEY & WHITNEY LLP

250 PARK AVE FL 15
NEW YORK, NY 10177-1500
Phone Number: (212) 415-9200
Fax Number: (212) 953-7201

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-02-08 12:50:25 ET

Serial Number: 77621838 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

SKINNYGIRL

(words only): SKINNYGIRL

Standard Character claim: Yes

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2010-12-17

Filing Date: 2008-11-25

The Notice of Allowance Date is: 2009-12-29

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 113

Attorney Assigned:
REGAN JOHN B

Current Location: 710 -Divisional Unit

Date In Location: 2010-05-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SKINNY GIRL COCKTAILS LLC

Address:

SKINNY GIRL COCKTAILS LLC
417 FIFTH AVENUE PENTHOUSE
NEW YORK, NY 10016
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 021**Class Status:** Active

cocktail shakers; cocktail stirrers; cocktail strainers; beverage glassware and shot glasses; pitchers

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 032**Class Status:** Active

prepared non-alcoholic cocktails; non-alcoholic cocktail mixes

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 033**Class Status:** Active

alcoholic cocktail mixes

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-12-18 - Notice Of Approval Of Extension Request E-Mailed

2010-12-17 - Extension 2 granted

2010-12-15 - Extension 2 filed

2010-12-15 - TEAS Extension Received

2010-05-12 - Notice Of Approval Of Extension Request E-Mailed

2010-05-11 - Extension 1 granted

2010-04-30 - Extension 1 filed

2010-05-11 - Divisional processing completed

2010-04-30 - Divisional request received

2010-04-30 - TEAS Request To Divide Received

2010-04-30 - TEAS Extension Received

2010-04-27 - Divisional processing completed

2010-03-30 - Divisional request received

2010-04-22 - Case Assigned To Intent To Use Paralegal

2010-03-30 - TEAS Request To Divide Received

2009-12-29 - NOA Mailed - SOU Required From Applicant

2009-10-06 - Notice Of Publication E-Mailed

2009-10-06 - Published for opposition

2009-09-03 - Law Office Publication Review Completed

2009-09-03 - Assigned To LIE

2009-08-31 - Approved For Pub - Principal Register

2009-08-14 - Teas/Email Correspondence Entered

2009-08-14 - Communication received from applicant

2009-08-14 - TEAS Response to Office Action Received

2009-03-03 - Notification Of Non-Final Action E-Mailed

2009-03-03 - Non-final action e-mailed

2009-03-03 - Non-Final Action Written

2009-02-25 - Assigned To Examiner

2009-02-12 - Automatic Update Of Assignment Of Ownership

2008-12-02 - Notice Of Pseudo Mark Mailed

2008-12-01 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Sarah M. Robertson

Correspondent

SARAH M. ROBERTSON
DORSEY & WHITNEY LLP
250 PARK AVE FL 15
NEW YORK, NY 10177-1500
Phone Number: (212) 415-9200
Fax Number: (212) 953-7201
